

**ZONING CHANGE REVIEW SHEET****CASE:** C14-2015-0115 – 4222 S IH 35**P.C. DATE:** October 13, 2015**ADDRESS:** 4222 South IH 35 Service Road Southbound**DISTRICT AREA:** 3**OWNER/APPLICANT:** BIKS, Inc.  
(Glenn Williams)**AGENT:** Moncada Enterprises,  
LLC (Phil Moncada)**ZONING FROM:** LI-PDA-NP      **TO:** CS-1-NP      **AREA:** 2.295 acres**SUMMARY STAFF RECOMMENDATION:**

The Staff recommendation is to grant commercial – liquor sales – conditional overlay – neighborhood plan (CS-1-CO-NP) combining district zoning. The Conditional Overlay limits the development of the property to 2,000 trips per day.

**PLANNING COMMISSION RECOMMENDATION:**

October 13, 2015:

**ISSUES:**

As indicated in the attached correspondence, a nearby property owner at 4108 South IH 35 (the southwest corner of IH 35 and Ben White Blvd) objects to the proposed rezoning. In 2012, the property owner filed a zoning change that would have allowed for an adult-oriented business at 4108 South IH 35 and subsequently received correspondence from a representative at St. Edward's University (C14-2012-0018). The University previously owned this corner as well as the adjacent tracts to the south to St. Elmo Road, including 4222 South IH 35. A private restrictive covenant dating from 1962 outlines general use restrictions. The 2012 zoning case was withdrawn prior to Planning Commission action.

**DEPARTMENT COMMENTS:**

The rezoning area is a platted lot that contains a vacant restaurant, and has limited industrial services – planned development area – neighborhood plan (LI-PDA-NP) since the South Congress Combined Neighborhood Plan and associated rezoning cases were approved in August 2005. The property is situated at two corners, and access is taken from the southbound IH 35 service road, East St. Elmo Road and Santiago Street, the latter which connects with East Ben White Boulevard approximately 600 feet to the north. There are two hotel-motels and a vacant automobile dealership to the north (LI-PDA-NP), a hotel motel, an automotive repair shop and automotive rentals across East St. Elmo Road to the south (LI-NP), and mini-warehouses and a recycling center to the west (LI-PDA-NP). Please refer to Exhibits A (Zoning Map) and A-1 (Aerial View).

The Applicant has requested commercial – liquor sales – neighborhood plan (CS-1-NP) district zoning as the first step in remodeling the existing building for an adult lounge (an adult cabaret (nightclub) that serves alcoholic beverages). An *adult lounge* use is a conditional use in the CS-1 district, hence a conditional use permit will be required prior to establishing the use. As information, the closest adult lounge is located approximately 2,400 linear feet as measured along the street frontages from the northwest corner of the subject property.

Staff recommends the Applicant's request based on the following considerations: 1) the proposed use is compatible with the surrounding commercial and industrial land uses and corresponding zoning; 2) there are no existing residential uses within the surrounding area and the site meets the 1,000 feet distance requirements outlined in LDC Section 25-2-801 from another adult-oriented business, school, church, public park, playground, licensed day-care center, museum or library; and 3) access is taken to a major arterial roadway, as well as a collector.

### **EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
<i>Site</i>	LI-PDA-NP	Vacant restaurant
<i>North</i>	LI-PDA-NP	Vacant automobile sales; Two Hotel-Motels; Restaurant
<i>South</i>	LI-NP	Auto repair; Undeveloped; Hotel-motel; Auto rental; Auto sales
<i>East</i>	N/A	South IH 35 service road and main lanes
<i>West</i>	LI-PDA-NP	Mini warehouses; Recycling center

**NEIGHBORHOOD PLAN AREA:** South Congress Combined    **TIA:** Is not required  
(East Congress)

**WATERSHED:** Williamson Creek – Suburban    **DESIRED DEVELOPMENT ZONE:** Yes

**CAPITOL VIEW CORRIDOR:** No

**SCENIC ROADWAY:** No

### **NEIGHBORHOOD ORGANIZATIONS:**

26 – Far South Austin Community Association  
 96 – Southeast Corner Alliance of Neighborhoods (SCAN)  
 176 – Kensington Park Homeowners Association    511 – Austin Neighborhoods Council  
 627 – Onion Creek Homeowners Association    742 – Austin Independent School District  
 753 – Paisano Mobile Home Park Neighborhood Association  
 1108 – Perry Grid 644    1173 – South Congress Combined Neighborhood Plan  
 1228 – Sierra Club, Austin Regional Group    1258 – Del Valle Community Coalition  
 1316 – Southeast Austin Combined Neighborhood Plan  
 1340 – Austin Heritage Tree Foundation    1363 – SEL Texas

1408 – Go! Austin/Vamos! Austin – Dove Springs 1424 – Preservation Austin  
 1429 – Go!Austin / Vamos!Austin (GAVA) – 78745  
 1438 – Dove Springs Neighborhood Association  
 1447 – Friends of the Emma Barrientos MACC 1528 – Bike Austin  
 1530 – Friends of Austin Neighborhoods

### **SCHOOLS:**

Galindo Elementary School

Bedichek Middle School

Travis High School

### **CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C14-2012-0018 – Ben White Commercial – 4108 S IH 35 Service Rd SB	LI-PDA-NP to CS-MU-NP	Withdrawn by the Applicant prior to Planning Commission consideration	Not applicable
C14-05-0107.01 – East Congress NP Rezoning, Tract A – City Initiated – 700 Industrial Blvd, 908-932 E St Elmo Rd, & 4100-4336 Santiago St	CS-NP; LI-NP to LI-PDA-NP	To Grant LI-PDA-NP for all permitted and conditional LI uses, add'l residential and civic uses, establishes cocktail lounge and hospital services (general) as add'l conditional uses, prohibits intense industrial uses, and establishes site development stds, including height, setbacks, building coverage, impervious cover, and removes the maximum f-a-r	Apvd LI-PDA-NP as Commission recommended (10-20- 2005).

### **RELATED CASES:**

The property is platted as Lot 3, Interstate 35 Industrial Park, a subdivision recorded in June 1980 (C8-79-100.1). Please refer to Exhibit B.

The subject property is within the boundaries of the South Congress Combined (East Congress) Neighborhood Planning Area. On the adopted Future Land Use Map, the rezoning area is designated as Mixed Use (NP-05-0020). A Neighborhood Plan Amendment case is not required.

The subject property as well as the adjacent tracts to the north were designated as Tract 104 and zoned LI-PDA-NP combining district (C14-05-0107 – Ordinance No. 20050813-Z004). The PDA allows for all permitted and conditional LI uses, additional residential and civic uses, establishes cocktail lounge and hospital services (general) as additional conditional uses, prohibits intense industrial uses, and establishes site development standards, including height, setbacks, building coverage, impervious cover, and removes the maximum floor-to-area ratio. Please refer to Exhibit C.

There are no site plan cases on the subject property.

**EXISTING STREET CHARACTERISTICS:**

Name	ROW	Pavement	Classification	Sidewalks	Bike Route	Capital Metro (within ¼ mile)
IH 35	496 feet	431 feet	Highway	No	Wide Curb; Route # 421	No
St. Elmo Road	70 feet	40 feet	Collector	No	Wide Curb; Route #:74	No
Santiago Street	80 feet	57 feet	Local	No	No	No

**CITY COUNCIL DATE:** November 12, 2015

**ACTION:**

**ORDINANCE READINGS:** 1<sup>st</sup>

2<sup>nd</sup>

3<sup>rd</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Wendy Rhoades  
e-mail: wendy.rhoades@austintexas.gov

**PHONE:** 512-974-7719

05-0107 01

89-027  
SP-02-0309C

RECYCLING CENTER

CAR SALES

LI-PDA-NP

C14-05-0107.01

83-312

70-001

MINI-WHSE

OFFICES

SANTIAGO ST

LI-PDA-NP

REST.

R83-19

HOTEL

CAR SALES  
(VACANT)

RZ-87-45

HOTEL

E ST ELMO RD

NP-05-0820

CAFETERIA

C14-05-0107

LI-NP

SP-93-0154C

LITHOGRAPHICS

05-0107

LI-CO-NP

94-96

AUTO REPAIR

UNDEV.

HOTEL

70-001

LI-NP

SP-98-0045C

AUTO RENTALS

SP-05-1584C

S IH 35 SVRD SB  
E BEN WHITE WB TO S 35 SB RAMP  
S 35 NB TO E BEN WHITE WB RAMP  
S IH 35 NB  
S 35 NB TO E BEN WHITE EB RAMP  
E BEN WHITE EB TO S 35 SB RAMP  
S IH 35 SB

S IH 35 SVRD NB  
S 35 NB TO E BEN WHITE WB RAMP

OFFICE BLDG

GR-NP

PARKING GARAGE

E ST ELMO RD

CS-NP

GAS STA.

97-0085

GR-CO-NP

77-131

MOTEL/REST

N



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

ZONING

CASE#: C14-2015-0115

EXHIBIT A

1" = 200'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.









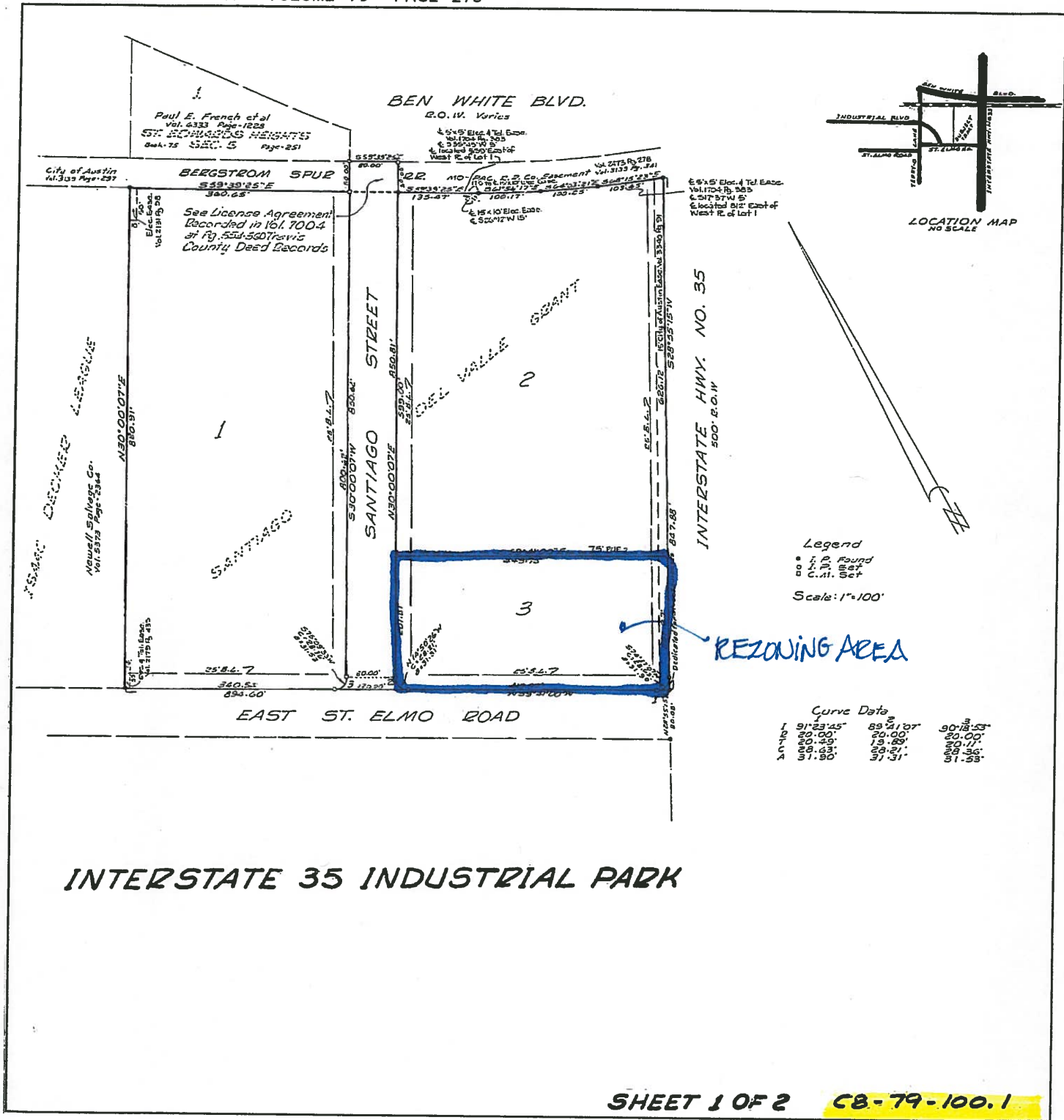


EXHIBIT B  
RECORDED PLAT

**ORDINANCE NO. 20050818-Z004**

**AN ORDINANCE REZONING AND CHANGING THE ZONING MAP TO ADD A NEIGHBORHOOD PLAN COMBINING DISTRICT TO THE BASE ZONING DISTRICTS ON APPROXIMATELY 772.82 ACRES OF LAND GENERALLY KNOWN AS THE EAST CONGRESS NEIGHBORHOOD PLAN AREA AND TO CHANGE THE BASE ZONING DISTRICTS ON 36 TRACTS OF LAND.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to add a neighborhood plan (NP) combining district to each base zoning district within the property and to change the base zoning districts on 36 tracts of land within the property described in Zoning Case No. C14-05-0107, on file at the Neighborhood Planning and Zoning Department, as follows:

Approximately 772.82 acres of land in the City of Austin, Travis County, Texas, more particularly described and identified in the attached Exhibit "A" incorporated into this ordinance (the "Property"),

generally known as the East Congress neighborhood plan combining district, locally known as the area bounded by Stassney Lane on the south, IH-35 on the east, Ben White Boulevard on the north, and South Congress Avenue on the west, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "B".

Except as provided in this ordinance, the existing base zoning districts and conditions remain in effect.

**PART 2.** The base zoning districts for the 36 tracts of land are changed from rural residence (RR) district, single family residence standard lot (SF-2) district, interim family residence (I-SF-3) district, family residence (SF-3) district, multifamily residence low density (MF-2) district, multifamily residence medium density (MF-3) district, multifamily residence medium density-conditional overlay (MF-3-CO) combining district, neighborhood office (NO) district, limited office (LO) district, community commercial (GR) district, community commercial-conditional overlay (GR-CO) combining district, warehouse limited office-conditional overlay (W/LO-CO) combining district, general commercial services (CS) district, and commercial-liquor sales (CS-1) district, commercial-liquor sales-conditional overlay (CS-1-CO) combining district, limited industrial services (LI) district, and limited industrial services-conditional overlay (LI-CO)

EXHIBIT C

2005 NP REZONING ORDINANCE



combining district to limited office-mixed use-neighborhood plan (LO-MU-NP) combining district, limited office-mixed use-conditional overlay-neighborhood plan (LO-MU-CO-NP) combining district, general commercial services-neighborhood plan (CS-NP) combining district, general commercial services-mixed use-neighborhood plan (CS-MU-NP) combining district, general commercial services-conditional overlay-neighborhood plan (CS-CO-NP) combining district, general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district, commercial-liquor sales-mixed use-neighborhood plan (CS-I-MU-NP) combining district, limited industrial services-neighborhood plan (LI-NP) combining district, limited industrial services-conditional overlay-neighborhood plan (LI-CO-NP) combining district, public-neighborhood plan (P-NP) combining district, and limited industrial services-planned development area-neighborhood plan (LI-PDA-NP) combining district, as more particularly described and identified in the chart below:

TRACT NO.	ADDRESS	FROM	TO
101	133, 201, 205 E Ben White Blvd; 4101 & 4141 S Congress Ave	LI, SF-3	LI-PDA-NP
102	321-505 (odd only) E Ben White Blvd; 0 E Ben White Blvd (DECKER I 15X400 FT ABS 8 SUR 20); 4110 Terry-O Ln	LI, CS-1, CS-1-CO	LI-PDA-NP
103	601, 701, 705, 711, 717, & 1001 E Ben White Blvd	LI	LI-PDA-NP
104	4108, 4216, 4118, 4200, 4222 S Interstate Hy 35 Svc Rd SB	LI	LI-PDA-NP
105	4201 S Congress Ave	LI	LI-NP
107	121 Industrial Blvd	SF-3	LI-NP
108	4241, 4243, 4235, & 4237, & 4315 S Congress Ave; 0 S Congress Ave (FORTVIEW ADDN 53.36 X 181.61FT AV BLK 27)	LI, CS, SF-3	CS-MU-NP
110	4355 - 4415 (odd only) S Congress Ave	LI, CS, GR-CO, SF-3	CS-MU-NP
111	115 E St Elmo Rd	LI-CO	LI-NP
112	4401 (ST ELMO SQUARE LOT 1) S Congress Ave; 4411, 4501, & 4515 S Congress Ave; 4500 Lucksinger Ln (FORTVIEW ADDN .75 ACR OF BLK 25)	LI, CS, SF-3	CS-MU-NP
113	134 Sheraton Ave	CS	CS-MU-CO-NP
114	4619 S Congress Ave	CS	CS-MU-NP
115	4417 Lucksinger Ln	SF-3	CS-MU-NP
116	315E St Elmo Rd	SF-3	LI-NP
117	4513 Lucksinger Ln	SF-3	LO-MU-NP

TRACT NO.	ADDRESS	FROM	TO
118	4431 (BENOIT-BAILEY ADDN LOT A * FIRST RESUB OF), 4503 (BLOCKERS ADDN .25 ACR BLK 5), & 4507 Lucksinger Ln (BENOIT-BAILEY ADDN LOT 2)	LI, SF-3	CS-MU-NP
119	415 & 523 E St Elmo Rd; 711 & 713 E St Elmo Rd (BLOCKERS ADDN ACR 1.38)	LI	LI-CO-NP
120	4511 Lucksinger Ln	LI	CS-MU-CO-NP
121	135, 139 E. St. Elmo Rd.	LI	LI-NP
122	4510 Terry-O Ln (SOUTH AUSTIN INDUSTRIAL PARK LOT 4 & SOUTH AUSTIN INDUSTRIAL PARK PHS A LOT 5B)	LI	CS-MU-CO-NP
123	711 E St Elmo Rd	I-SF-3	LI-NP
125	4703, 4715 (FARRELL THOMAS SUBD NO 2 W .563 ACR OF LOT 2), & 4719 (DECKER I ABS 8 SUR 20 ACR .558 & DECKER I ABS 8 SUR 20 ACR .584)S Congress Ave	CS	CS-MU-NP
126	4801 S Congress Ave	CS, MF-3-CO	CS-MU-CO-NP
128	4809 S Congress Ave (DECKER I ABS 8 SUR 20 ACR .780); 4811 & 4917 S Congress Ave; 0 S Congress Ave (DECKER I ABS 8 SUR 20 ACR 5.27)	CS, NO, SF-3	CS-MU-CO-NP
130	4701 Weidemar Ln	SF-3	CS-MU-NP
131	4701 Weidemar Ln (LOT 1 BLK A MUNDAY BILL SUBD )	GR-CO	CS-CO-NP
132	4703, 4705, 4707 Weidemar Ln; 1009 Shelby Ln; 4610 - 4914 (even only) S Interstate Hy 35 Svc Rd SB; 0 (DELVALLE S ABS 24 ACR .144); 0 (DELVALLE S ABS 24 ACR .276); 0 (JARKCO SUBDIVISION ACR .257 * OF LOT 1); 0 (DELVALLE S ABS 24 ACR .13); 0 (DELVALLE S ABS 24 ACR .15); 0 (DELVALLE S ABS 24 ACR .26); 0 (DELVALLE S ABS 24 ACR .260); 0 (JARKCO SUBDIVISION LOT 2) Weidemar Ln	LI, SF-3	CS-NP
135	0 (DECKER I ABS 8 SUR 20 ACR 43.954) Weidemar Ln	CS, MF-3, LO	CS-CO-NP
137	0 (DELVALLE S ABS 24 ACR 1.231) (DELVALLE S ABS 24 ACR .757) (DMC SUBD LOT 2 BLK B) (DMC SUBD LOT 2 BLK B) (CANNON W ABS 6 SUR 19 ACR 11.865) (CANNON W ABS 6 SUR 19 ACR 3.86) (WASSON ROAD ADDN LOT 1)	CS, GR, SF-2, RR	P-NP
142	5301, 5303, 5305 & 5307 Wasson Rd; 0 Wasson Rd (CANNON W ABS 6 SUR 19 ACR .31)	SF-3, RR	LO-MU-CO-NP
144	5211 Wasson Rd (CANNON W ABS 6 SUR 19 ACR 2.276); 0 Wasson Rd (CANNON W ABS 6 SUR 19 ACR .38)	W/LO-CO	CS-MU-NP
145	5405 Wasson Rd [PART] (E 1 ACR OF LOT 1 BLK A STASSNEY VENTURE SUBD )	CS	CS-MU-CO-NP



TRACT NO.	ADDRESS	FROM	TO
146	5303 - 5327 S Congress Ave (odd only) and 5210 - 5308 Wasson Rd (even only) and 102 E Mockingbird Ln (PLEASANT HILL ADDN LOTS 28-58 BLK 7A	CS, MF-2, SF-3	CS-MU-NP
147	5301 S Congress Ave	CS-1	CS-1-MU-NP
150	5401 - 5501 S Congress Ave (odd only) ( PLEASANT HILL ADDN LOTS 12-25 BLK 7 and PLEASANT HILL ADDN LOT 2-A-A * LESS SE TRI RESUB OF LOT 2-A THE RESUB OF LOT 1-11 BLK 7 and PLEASANT HILL ADDN LOT 2-A-B * RESUB OF LOT 2-A THE RESUB OF LOT 1-11 BLK 7)	CS	CS-MU-NP
151	5409 - 5509 Wasson Rd (odd only); 114 E Stassney Ln.	CS, GR	CS-MU-NP

**PART 3.** The following applies to an existing legal lot with single-family residential use or secondary apartment special use within the boundaries of the NP combining district:

1. The minimum lot area is 2,500 square feet.
2. The minimum lot width is 25 feet.
3. For a lot with an area of 4,000 square feet or less, the impervious coverage may not exceed 65 percent.

**PART 4.** The following applies to a single-family residential use, a duplex residential use, or a two-family residential use within the boundaries of the NP combining district:

1. Impervious cover and parking placement restrictions apply as set forth in Section 25-2-1603 of the Code.
2. Front or side yard parking restrictions apply as set forth in Section 25-2-1406 of the Code.

**PART 5.** Tracts 105, 108, 110-115, 117, 120-121, 125-126, 128, 142, 144-147, and 150-151 may be developed as a neighborhood mixed use building special use as set forth in Sections 25-2-1502 through 25-2-1504 of the Code.

**PART 6.** Tracts 105, 108, 110-114, 117, 120-121, 125-126, 128, 145-147, and 150-151 may be developed as a neighborhood urban center special use as set forth in Sections 25-2-1521 through 25-2-1524 of the Code.

**PART 7.** The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

1. A 30-foot wide vegetative buffer shall be established and maintained along the property lines of Tracts 119, 120, 128 and 135, that are adjacent to a property used or zoned family residence-neighborhood plan (SF-3-NP) combining district or more restrictive.
2. The maximum height of a building or structure on Tract 113 is 40 feet from ground level.
3. The following uses are prohibited uses of Tract 113:
  - Pawn shop services
  - Automotive washing (of any type)
  - Automotive sales
4. Vehicular access from Tract 126 to Suburban Drive is prohibited. All vehicular access to the tract shall be from other adjacent public streets or through other adjacent property.
5. Development of Tract 126 may not exceed a density of 23 residential units per acre.
6. A site plan or building permit for Tract 131 may not be approved, released, or issued, if the completed development or uses of the tract, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.
7. Vegetation and a six-foot high fence shall be provided and maintained for screening along the north and south property lines of Tract 131 that abut adjacent residential development as set forth in Section 25-2-1066.



8. The following uses are prohibited uses of Tract 142:

Bed and breakfast residential (Group 1)	Bed and breakfast residential (Group 2)
Condominium residential	Duplex residential
Group residential	Mobile home residential
Multifamily residential	Retirement housing (small site)
Retirement housing (large site)	Single-family attached residential
Small lot single-family residential	Townhouse residential
Two-family residential	

9. Vehicular access from Tract 145 is allowed only to South Congress Avenue.

**PART 8.** Development of the Property identified as Tracts 101, 102, 103, and 104 located within the boundaries of the planned development area (PDA) combining district established by this ordinance ("PDA Property") is subject to the use and site development regulations set forth in this part.

1. Development of the PDA Property shall comply with Section 25-2-648 (*Planned Development Area Performance Standards*) of the City Code.
2. Except as provided in Sections 3 to 5, all permitted and conditional limited industrial services (LI) uses are permitted and conditional uses of Tracts 101, 102, 103, and 104.
3. The following uses are additional permitted uses of Tracts 101, 102, 103, and 104:

Bed and breakfast residential (Group 1)	Bed and breakfast residential (Group 2)
Condominium residential	Group residential
Multifamily residential	Townhouse residential
Family home	Guidance services
Hospital services (limited)	Private primary educational facilities
Private secondary educational facilities	Public primary educational facilities
Public secondary educational facilities	

4. The following uses are conditional uses of Tracts 101, 102, 103, and 104:

Cocktail lounge	Hospital services (general)
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5. The following uses are prohibited uses of Tracts 101, 102, 103, and 104:

Monument retail sales  
Basic industry  
Recycling center

Scrap and salvage  
Light manufacturing  
Resource extraction

6. The following site development standards apply to the PDA Property.

1. The maximum height for Tract 101 is 85 feet.
2. The maximum height for Tracts 102, 103, and 104 is 125 feet.
3. The minimum front yard setback for Tracts 101, 102, 103, and 104 is 25 feet.
4. The minimum street side yard setback for Tracts 101, 102, 103, and 104 is 25 feet.
5. The minimum interior side yard setback for Tracts 101, 102, 103, and 104 is 0 feet.
6. The minimum rear yard setback for Tracts 101, 102, 103, and 104 is 15 feet.
7. The maximum building coverage for Tracts 101, 102, 103, and 104 is 85 percent.
8. The maximum impervious cover for Tracts 101, 102, 103, and 104 is 85 percent.
9. A maximum floor to area ratio does not apply to Tracts 101, 102, 103, and 104.

Except as specifically restricted under this ordinance, the Property may be developed and used in accordance with the regulations established for the respective base districts and other applicable requirements of the City Code.



**PART 9.** This ordinance takes effect on August 29, 2005.

**PASSED AND APPROVED**

\_\_\_\_\_  
August 18, 2005

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§  
§

\_\_\_\_\_  
*Will Wynn*

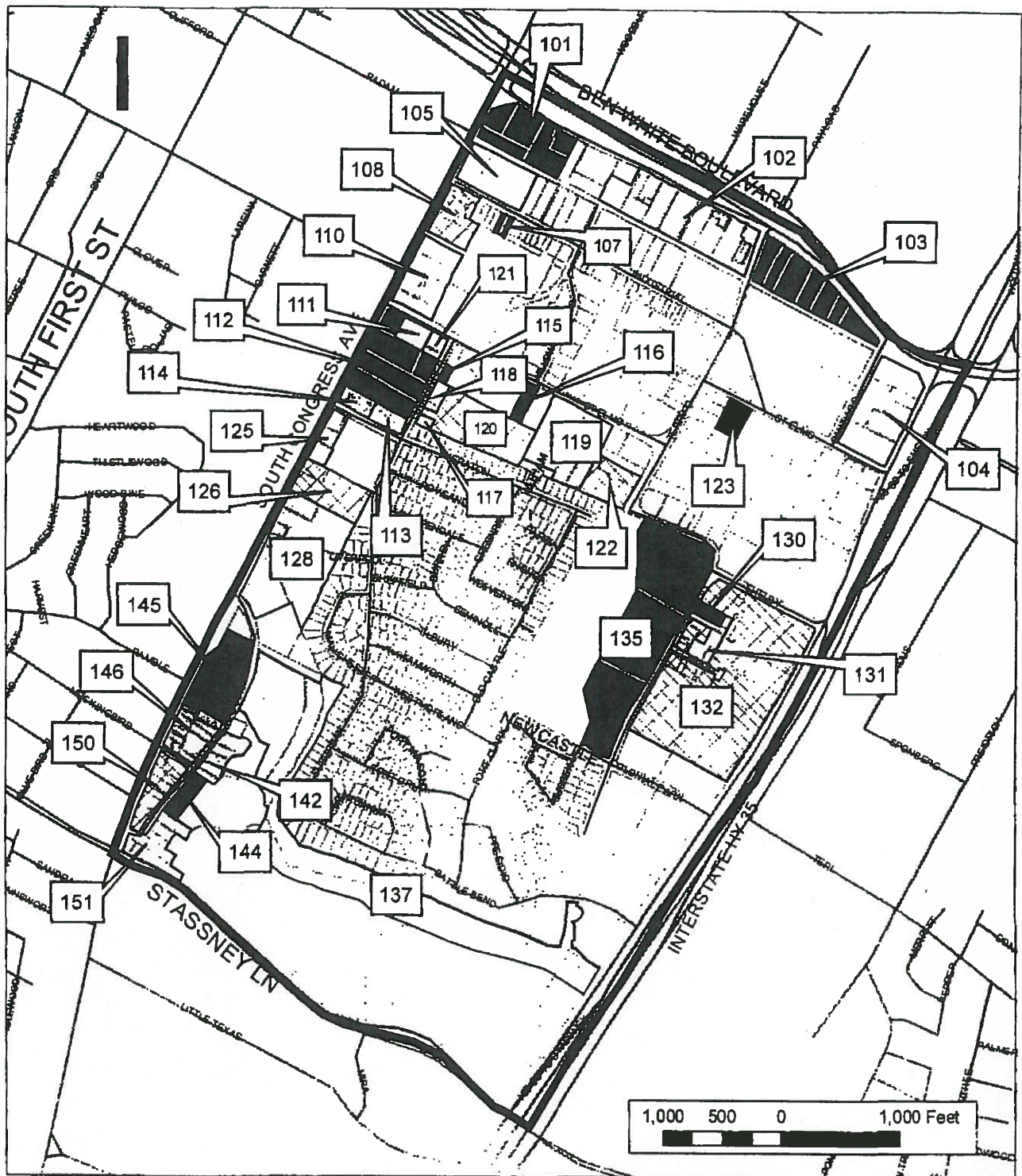
Will Wynn  
Mayor

**APPROVED:**

\_\_\_\_\_  
*David Allan Smith*  
David Allan Smith  
City Attorney

**ATTEST:**

\_\_\_\_\_  
*Shirley A. Brown*  
Shirley A. Brown  
City Clerk



East Congress Neighborhood Planning Area:  
Proposed Tracts for Rezoning  
Case #C14-05-0107

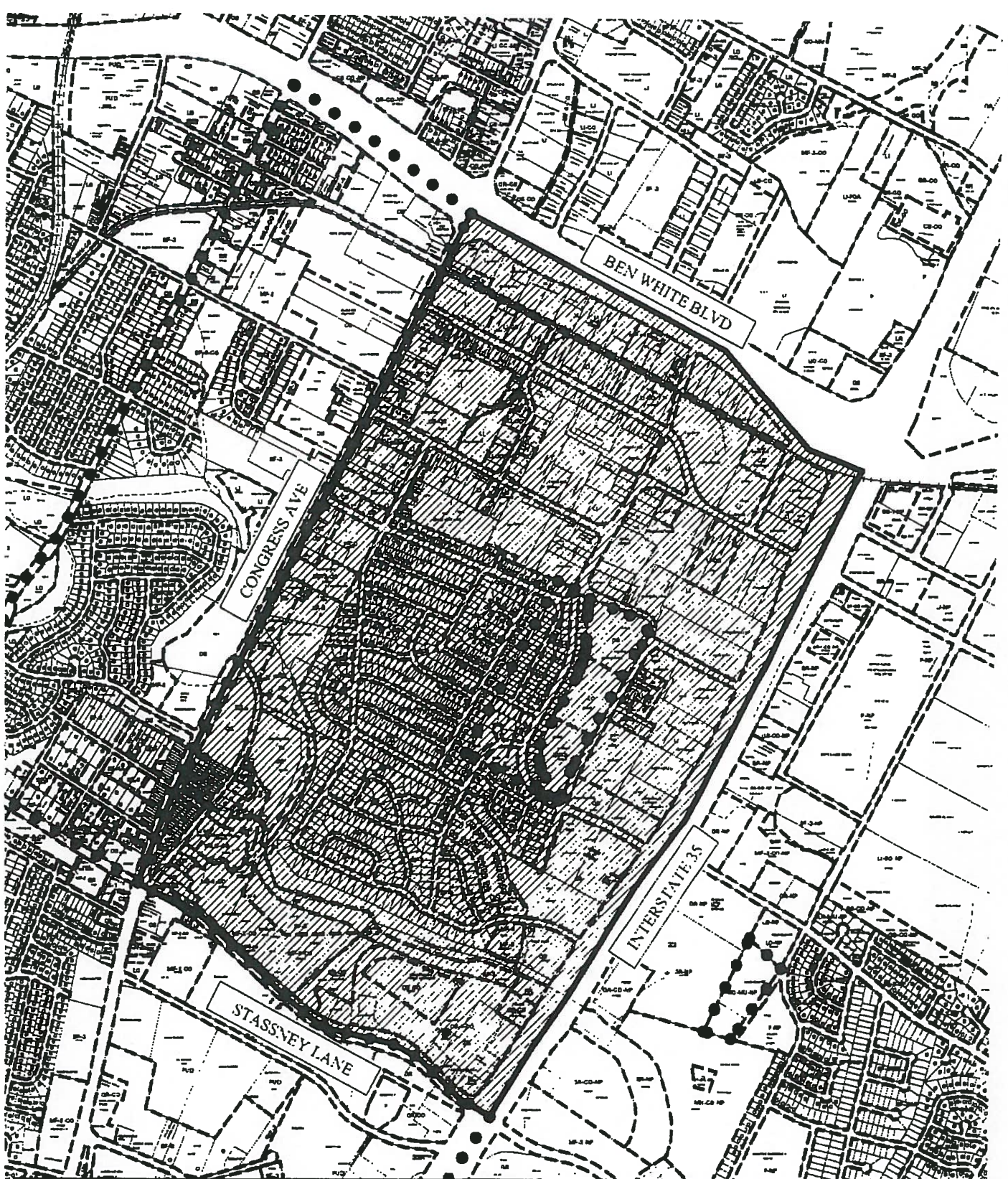






Exhibit A



City of Austin  
Neighborhood Planning and Zoning Department





 1" = 1200'	SUBJECT TRACT  PENDING CASE  ZONING BOUNDARY  CASE MGR: W. WALSH	CASE #: C14-05-0107 ADDRESS: EAST CONGRESS NEIGHBORHOOD PLANNING AREA SUBJECT AREA (acres): N/A	ZONING EXHIBIT B DATE: 05-C7 INTLS: SM	CITY GRID REFERENCE NUMBER H18-18
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**SUMMARY STAFF RECOMMENDATION:**

The Staff recommendation is to grant commercial – liquor sales – conditional overlay – neighborhood plan (CS-1-CO-NP) combining district zoning. The Conditional Overlay limits the development of the property to 2,000 trips per day.

**BASIS FOR LAND USE RECOMMENDATION (ZONING PRINCIPLES)**

- 1. The proposed zoning should be consistent with the purpose statement of the district sought.*

The commercial – liquor sales (CS-1) zoning district is intended for commercial and industrial activities of a service nature which typically have operating characteristics or traffic service requirements generally incompatible with residential environments, and specifically includes liquor sales as a permitted use.

- 2. Zoning changes should promote compatibility with adjacent and nearby uses.*

Staff recommends the Applicant's request based on the following considerations: 1) the proposed use is compatible with the surrounding commercial and industrial land uses and corresponding zoning; 2) there are no existing residential uses within the surrounding area and the site meets the 1,000 foot distance requirements outlined in LDC Section 25-2-801 from another adult-oriented business, school, church, public park, playground, licensed day-care center, museum or library; and 3) access is taken to a major arterial roadway, as well as a collector.

**EXISTING CONDITIONS****Site Characteristics**

The subject property contains a vacant commercial building formerly occupied by a restaurant, is sparsely vegetated and relatively flat. There appear to be no significant topographical constraints on the site.

**Impervious Cover**

Within the Onion Creek watershed, the maximum impervious cover allowed by the CS-1 zoning district would be 80%, which is a consistent figure between the watershed and the zoning regulations.

**Comprehensive Planning**

This rezoning case is bounded by three streets, including Santiago Street, East St. Elmo Road and the IH-35 service road in south Austin. The subject property is approximately 2.3 acres in size, contains a large one-story building, and is located within the boundaries of the South Congress Combined Neighborhood Planning Area, in the East Congress Planning Area.



Surrounding land uses includes a hotel to the north, a hotel and vacant land to the south, IH-35 to the east, and refinishing shop and convenience storage facility to the west. The proposed use is a nightclub.

**South Congress Combined Neighborhood Planning Area (SCCNPA)**

The SCCNPA Future Land Use Map (FLUM) classifies this portion of the planning areas as 'Mixed Use' and Zone CS-1 is permitted under this land use category. Mixed Use is defined as an area that is intended for a mix and non-residential uses, including retail and commercial services. The following text and policies are excerpted from the SCCNPA and are applicable to this case:

**GOAL THREE:** Focus mixed-use development and commercial uses along major commercial corridors and in specialized districts (p 60)

**Text:** Interstate Highway 35 - Interstate Highway 35 serves as the eastern boundary of the SCCNPA and has become an established "Motor Mile." Large auto dealerships line most of the frontage road from Ben White Boulevard to William Cannon. It should retain this character. (p. 62)

**Objective 3.2:** The frontage road of Interstate Highway 35 should continue as a "motor mile."

**Recommendation 3:** Maintain the current commercial land use pattern along this portion of Interstate Highway 35.

**GOAL FOUR:** Improve the accessibility, convenience, and safety for all forms of transportation. (p 73)

**Objective 4.1:** Improve pedestrian connections throughout area. Interstate Highway 35 Frontage Road There are well-worn footpaths along the southbound frontage road of Interstate Highway 35 from Ben White Boulevard to Stassney Lane. Sidewalk ramps are in place, but there are no sidewalks or safe pedestrian crossings over Williamson Creek. Consequently, residents in nearby neighborhoods cannot safely walk or bicycle to restaurants and businesses located around the corner from them at the intersection of Stassney Lane and Interstate Highway 35. Those neighborhoods include Battle Bend Springs, Greenwood Hills, a number of multi-family developments, and a new subdivision at Colonial Park Boulevard currently under construction. The only current safe route is a long, roundabout one beginning at Sheraton Drive and continuing along South Congress Avenue to Stassney Lane.

**Recommendation 1:** Construct continuous sidewalks along the southbound frontage road of Interstate Highway 35 between Ben White Boulevard and Stassney Lane, including a pedestrian bridge over Williamson Creek.

A proposed use and location appears consistent with the text and policies of the SCCNPA. However, staff has noted that there are no sidewalks the three streets abutting this property, including St. Elmo Road, Santiago Street or along the IH-35 service road, to assist the neighborhood from reaching this new business in any other way but by an automobile. The SCCNPA high recommends the installation of sidewalks in this area to promote pedestrian mobility to businesses located in this area.



### **Imagine Austin**

The property is located just outside the boundaries of a '**Neighborhood Center**,' which is located to the north, as identified on the Imagine Austin's Growth Concept Map. A Neighborhood Center, the smallest center in the Imagine Austin Comprehensive Plan, has a more local focus, and is intended for doctors and dentist offices, retail shops, branch libraries, dry cleaners, hair salons, coffee shops, restaurants, and other small and local businesses to generally serve the center and surrounding neighborhoods.

Based on the comparative scale of this site relative to other nearby commercial uses located in the area, as well as the site not being located along an Activity Corridor or within an Activity Center, this case falls below the scope of Imagine Austin, which is broad in scope, and consequently the plan is neutral on this proposed rezoning. Staff also encourages that the developer of this project strongly consider installing a sidewalk along St. Elmo Road and the IH-35 service road to allow pedestrians to access their new business.

### **Environmental**

The site is not located over the Edwards Aquifer Recharge Zone. The site is in the Williamson Creek Watershed of the Colorado River Basin, which is classified as a Suburban Watershed by Chapter 25-8 of the City's Land Development Code. The site is in the Desired Development Zone.

Under current watershed regulations, development or redevelopment on this site will be subject to the following impervious cover limits:

<i>Development Classification</i>	<i>% of Gross Site Area</i>	<i>% of Gross Site Area with Transfers</i>
Single-Family (minimum lot size 5750 sq. ft.)	50%	60%
Other Single-Family or Duplex	55%	60%
Multifamily	60%	70%
Commercial	80%	90%

According to floodplain maps there is no floodplain within or adjacent to the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 512-974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Under current watershed regulations, development or redevelopment requires water quality control with increased capture volume and control of the 2 year storm on site.

### **Site Plan and Compatibility Standards**

A site plan will be required for any new construction. Subchapter E will apply to the development for any new construction.

Additional requirements will be provided at the time of site plan submittal.

### **Transportation**

Additional right-of-way may be required at the time of subdivision and/or site plan.

FYI: Traffic improvements, such as sidewalk and driveway upgrades may be required at time of site plan.

A traffic impact analysis was waived for this case because the applicant agreed to limit the intensity and uses for this development. If the zoning is granted, development should be limited through a conditional overlay to less than 2,000 vehicle trips per day [LDC, 25-6-117].

Nadia Barrera, Urban Trails, Public Works Department and Nathan Wilkes, Bicycle Program, Austin Transportation Department may provide additional comments regarding bicycle and pedestrian connectivity per the Council Resolution No. 20130620-056.

According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, a dedicated bike lane is identified for St. Elmo Road and a wide curb for IH 35.

### **Water and Wastewater**

FYI: The landowner intends to serve the site with City of Austin water and wastewater utilities. The landowner, at own expense, will be responsible for providing any water and wastewater utility improvements, offsite main extensions, water or wastewater easements, utility relocations and or abandonments required by the proposed land use. Depending on the development plans submitted, water and or wastewater service extension requests may be required. Water and wastewater utility plans must be reviewed and approved by the Austin Water Utility for compliance with City criteria and suitability for operation and maintenance. All water and wastewater construction must be inspected by the City of Austin. The landowner must pay the City inspection fee with the utility construction. The landowner must pay the tap and impact fee once the landowner makes an application for a City of Austin water and wastewater utility tap permit.

September 21, 2015

Ms. Wendy Rhoades  
Case Manager  
Site Plan Review Division  
City of Austin

RE: Zoning Change – 4222 S IH 35  
Case# c14-2015-01115

Dear Ms. Rhoades:

As the owner of 501 E. Ben White Blvd. and 4108 S IH 35, I am formally notifying the City of Austin Site Plan Review Division of my **opposition** to the proposed CS-1 zoning for the above referenced property, if when approved, a conditional overlay **prohibiting** adult oriented use would be required.

In 2012, the previous owner of the referenced property was attempting to open a bikini or topless club/bar on this site. St. Edward's University was the previous owner of the entire area. It placed restrictions on allowable uses in the deed. In 2012, St. Edward's University rejected the nightclub concept for this site. See attached copy of the deed and a letter from the attorney for St. Edward's in which he voices the university's rejection.

We appreciate your sharing this information with the Zoning and Platting Commission.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "JAMPROS MOUMOURK". The signature is stylized with a small circle above the 'P' in 'JAMPROS' and a small circle above the 'U' in 'MOUMOURK'. The letters are bold and slightly slanted.

Property Owner





## NOTICE OF FILING OF APPLICATION FOR REZONING

Este Aviso le informa de una audiencia publica tratando de un cambio de zonificación dentro de una distancia de 500 pies de su propiedad. Si usted desea recibir información en español, por favor llame al (512) 974-3531.

**Mailing Date: August 27, 2015**

**Case Number: C14-2015-0115**

The City of Austin has sent this letter to inform you that we have received an application for rezoning of a property that requires approval by a Land Use Commission and final approval by the City Council. We are notifying you because City Ordinance requires that all property owners within 500 feet, residents who have a City utility account address within 500 feet, and registered environmental or neighborhood organizations whose declared boundaries are within 500 feet be notified when the City receives an application. **The Commission may not take action on this application until a public hearing is held. You will receive a separate notice of the public hearing once it has been scheduled, which will provide the date, time and location of the public hearing.** Below you will find information regarding the application.

<b>Project Location:</b>	<b>4222 S IH 35 SVRD SB</b>
<b>Owner:</b>	<b>Glenn Williams, (512) 844-5938</b>
<b>Applicant</b>	<b>Moncada Consulting, Phil Moncada, (512) 474-7377</b>

### **Proposed Zoning Change:**

**From: LI-PDA-NP – Limited Industrial Service district is intended as an area primarily for commercial services and limited manufacturing uses, generally on moderately sized sites. PDA – Planned Development Area combining district is intended for combination with selected commercial and industrial base districts, in order to modify base district provisions as necessary to allow for appropriate industrial and commercial uses or to reflect the terms of a Planned Development Area agreement following annexation of properties subject to such an agreement. NP – Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.**

**To: CS-1-NP -Commercial-Liquor Sales district is intended predominately for commercial and industrial activities of a service nature which typically have operating characteristics or traffic service requirements generally incompatible with residential environments, and specifically includes liquor sales as a permitted use. NP – Neighborhood Plan district denotes a tract located within the boundaries of an adopted Neighborhood Plan.**

You can find more information on this application by inserting the case number at the following Web site: [https://www.austintexas.gov/devreview/a\\_queryfolder\\_permits.jsp](https://www.austintexas.gov/devreview/a_queryfolder_permits.jsp).

If you have any questions concerning the zoning change application, please contact the case manager, Wendy Rhoades, at 512-974-7719 or via e-mail at [wendy.rhoades@austintexas.gov](mailto:wendy.rhoades@austintexas.gov) and refer to the case number located on this notice. The case manager's office is located at One Texas Center, 5<sup>th</sup> Floor, 505 Barton Springs Road, Austin, Texas. You may examine the file at One Texas Center between the hours of 7:45 a.m. and 4:45 p.m., Monday through Friday.

For additional information on the City of Austin's land development process, please visit our web site at: [www.austintexas.gov/planning](http://www.austintexas.gov/planning)



C14-2015-0115 WR 614625  
Property Owner or Current Resident  
501 E BEN WHITE BLVD  
AUSTIN TX 78704



C14-2015-0115 WR 0413010206

4108 IH35 LLC

501 E BEN WHITE BLVD

AUSTIN TX 78704-7307



GRAVES DOUGHERTY HEARON & MOODY  
A PROFESSIONAL CORPORATION

Edward McHorse  
512.480.5750  
512.480.5850 (fax)  
emchorse@gdhn.com

MAILING ADDRESS:  
P.O. Box 98  
Austin, TX 78767-9998

February 10, 2012

*Via email*

Mr. Mitchell Savrick  
Savrick Schumann Johnson McGarr Kaminski & Shirley, L.L.P.  
The Overlook at Gaines Ranch  
4330 Gaines Ranch Loop, Suite 150  
Austin, Texas 78735

Re: 4108 South IH-35

Mitchell:

This firm represents St. Edward's University (the "University"). I am in receipt of your letter dated January 25, 2012 on behalf of your client, 4108 IH35 LLC regarding the use restrictions applicable to Lot A, Interstate 35 Industrial Park II (and some of the nearby properties).

The University believes a business of the type you described (a top-less club) is likely to be outside the scope of the permitted uses of the property. I do not expect the University would be willing to grant a waiver with respect to the restrictions for such a use.

Sincerely,

GRAVES, DOUGHERTY, HEARON & MOODY  
A Professional Corporation

By: 

Edward McHorse

ESM/fs

cc: Ms. Rhonda Cartwright

**Savrick Johnson  
Schumann McGarr  
Kaminski  
& Shirley, LLP**

Mitchell D. Savrick - Partner  
[mitchell@ssmlaw.com](mailto:mitchell@ssmlaw.com)

The Overlook at Gaines Ranch  
4330 Gaines Ranch Loop, Suite 150  
Austin, Texas 78735  
Phone: (512) 347-1604  
Fax: (512) 347-1676

January 25, 2012

Ms. Rhonda Cartwright  
Vice President for Financial Affairs  
St. Edwards University  
3001 South Congress Avenue, MB215  
Austin, Texas 78704

Via Email: [rhondac@stedwards.edu](mailto:rhondac@stedwards.edu)

RE: 4108 S. IH-35, Austin, TX 78704

Dear Ms. Cartwright:

This Firm represents 4108 IH35 LLC, the owner of Lot A, Interstate 35 Industrial Park II, formerly the "Howdy Honda site." St. Edwards University previously owned the site. The deed from St. Edwards, signed by Brother Raymond Fleck, C.S.C., contains the following restriction:

This property shall be used for residential, commercial, industrial or warehousing purposes, and the Grantees, their heirs and assigns shall not use, or allow the use of the premises or any portion thereof, or any building or structure thereon for any business which constitute a nuisance, or any business which causes the emission of noxious or injurious odors or gases, or any business calculated to injure the reputation of said premises, or for any purpose contrary to law[.]

A copy of the deed is attached. A copy of the current subdivision is also attached.

The purpose of this letter is to inquire as to the University's position regarding this restriction and whether it intends to enforce it now that Highway 290 stands between the property and the University. In particular, a potential purchaser has inquired about using the property as a sexually-oriented business (top-less club) and is interested in not getting cross-wised with the University.




Ms. Rhonda Cartwright  
January 25, 2012  
Page 2

Any information you can provide to shed light on this subject would be appreciated. Of course, if you have any questions or comments, please let me know.

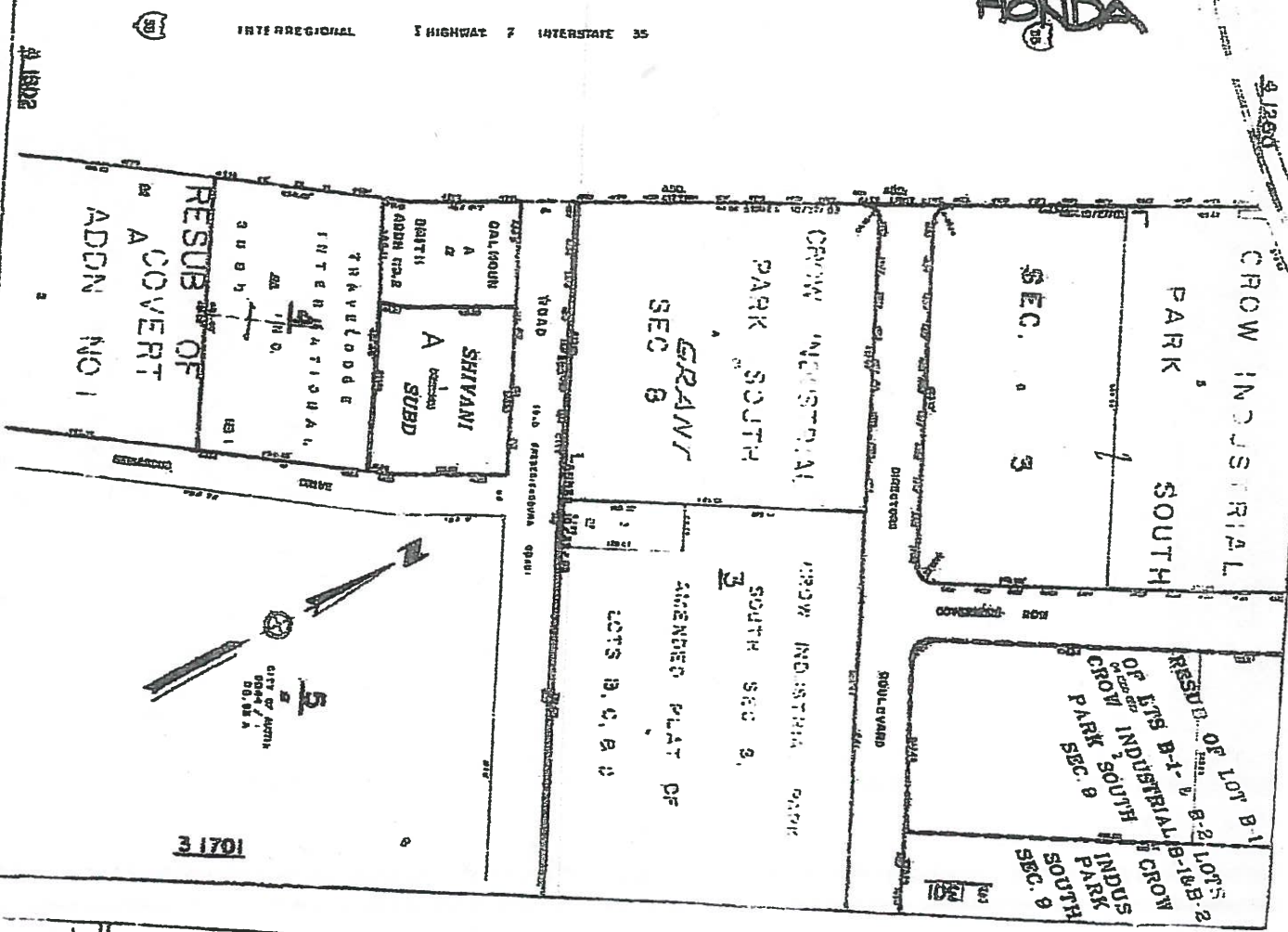
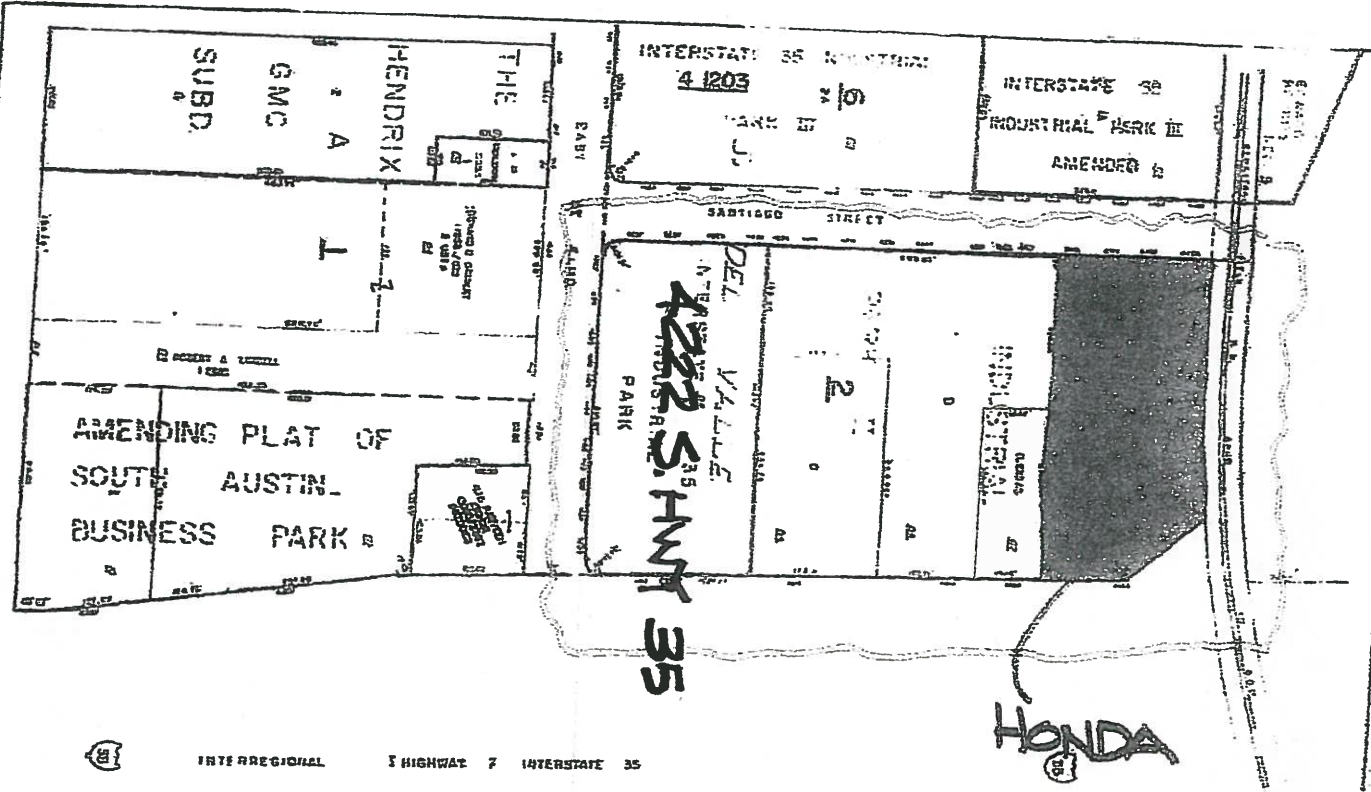
Very truly yours,

SAVRICK, SCHUMANN, JOHNSON, MCGARR  
KAMINSKI & SHIRLEY, L.L.P.



Mitchell D. Savrick  
For the Firm

MDS/jm/7108-06



MAP NO.  
4 1301



TRAVIS CENTRAL APPRAISAL DISTRICT  
8314 CROSS PARK DRIVE P.O. BOX 149012  
78754 AUSTIN, TEXAS 78714  
(512) 834-9317

ADMINISTRATIVE  
CITY OF AUSTIN  
ALSO  
AEC

EXCISE  
VOLUME

2501 26

THE STATE OF TEXAS

COUNTY OF TRAVIS

KNOW ALL MEN BY THESE PRESENTS:

That Saint Edward's University, (also sometimes known as St. Edwards University or St. Edward's University) a corporation, duly organized and operating under the Laws of Texas, acting through its duly authorized officers, of Travis County, Texas, hereinafter referred to as GRANTOR, for and in consideration of ten Dollars (\$10.00) cash in hand paid by Gus S. Wortham and E. R. Barrow of Harris County, Texas, and David R. Barrow of Travis County, Texas, hereinafter referred to as GRANTEES, receipt of which is hereby acknowledged, and for which no lien, expressed or implied, is retained or shall exist, and the further consideration of \$ 71,175.00 evidenced by one vendor's lien note of even date herewith, executed by GRANTEES, and payable to Saint Edward's University or order, bearing interest from date until paid at the rate of 8% per annum, interest due annually and principal due on the 30th day of July, 1972; to secure the full payment of said note, a vendor's lien is hereby reserved and retained on the hereinafter described property, have SOLD, GRANTED, AND CONVEYED, and by these presents do SELL, GRANT, AND CONVEY unto the above named GRANTEES, subject to the covenants and conditions herein set forth, the following described property, to-wit:

Being 17.794 acres of real property located in Travis County, Texas, and being more fully and exactly described by metes and bounds in Exhibit A attached hereto and made a part hereof for all purposes, (the same as if said Exhibit A were in all things herein written; and being referred to therein as Tract 1).

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging unto the above named GRANTEES, their heirs and assigns forever. And said above named GRANTOR does hereby bind itself its successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the said premises unto the above named GRANTEES, their heirs and assigns, against every person who ever lawfully claiming or to claim the same or any part thereof.

GRANTEES assume payment of taxes for the year 1962, and agree to pay all taxes each year upon the above described property and premises before any interest or penalty accrues thereon and to keep any improvements built during the life of the herein described vendor's lien on the above described property and premises insured against loss by fire and extended coverage policy in a company or companies acceptable to the owner of the above mentioned note, until said note and all renewals thereof are paid in full, all policies to have attached subrogation mortgage clause with loss payable to the owner of the above mentioned note, and failure of GRANTEES, their heirs, assigns, or legal representatives, to pay taxes and keep such improvements insured as provided above, or to do either or both of said things, shall authorize the owner of said note, without being under legal obligation to do so, to pay taxes and keep the improvements thereon insured and to pay insurance premiums, and all sums of money expended by the owner of said note in payment of taxes and insurance shall be a charge and debt against the GRANTEES herein and the above described property and shall bear interest





Surveyed July 19, 1962  
Metz & Engineering Co.  
of Madison, Wis.  
Metz & Engineering Co.  
Madison, Wis.  
Rt. 1, Box 100  
Madison, Wis.

## DESCRIPTION OF TRACT 1

## EXHIBIT A

Description of Tract 1 consisting of two pieces of real property referred to as Parcel 1-A and Parcel 1-B; being 17.794 acres, more or less, a portion of a 498 acre tract of land out of the Santiago Del Valle 10 League Grant in Travis County, Texas, described as Second Tract in a deed from University of Notre Dame to St. Edwards University, dated March 16, 1927, recorded in Vol. 398, Page 530, Travis County Deed Records, and being also a portion of a 298 acre tract out of the Santiago Del Valle 10 League Grant as described in a deed from W. S. Oldham to James Doyle, dated April 3, 1853, recorded in Vol. "G", Page 136, Travis County Deed Records, located and being situated in Travis County, Texas, and being described by metes and bounds as follows:

Parcel 1-A:

BEGINNING at an iron stake at the intersection of the south right-of-way line of the Missouri Pacific Railroad Company, with the west line of the Santiago Del Valle 10 League Grant, and the east line of the Isaac Decker League Survey #20 in Travis County, Texas, said iron stake being also in the west line of a 498 acre tract, out of the Santiago Del Valle 10 League Grant in Travis County, Texas, described as Second Tract in a deed from University of Notre Dame to St. Edwards University, dated March 16, 1927, recorded in Vol. 398, Page 530, Travis County Deed Records, said iron stake being at the southwest corner of that portion of the said 498 acre tract as described in a deed from St. Edwards University to Missouri Pacific Railroad Company as recorded in Vol. 2473, Pages 278-281, Travis County Deed Records, and from which beginning iron stake a concrete monument at the southeast corner of a 288 acre tract, out of the Santiago Del Valle 10 League Grant in Travis County, Texas, as described in a deed from A. C. Horton by agent, T. H. Duval, to A. N. Hopkins, dated February 28, 1851, as recorded in Vol. "E", Page 194, Travis County Deed Records, and being also an Ell corner of the said 498 acre tract designated as Second Tract, and being also an Ell corner of a 200 acre tract, a portion of the Santiago Del Valle 10 League Grant as described in a deed from A. C. Horton to James Doyle, dated December 6, 1853, as recorded in Vol. "F", Page 435, Travis County Deed Records, bears N 30° 00' E 5407.22 feet and S 60° 00' E 2428.47 feet;

THENCE with the south right-of-way line of the Missouri Pacific Railroad Company, courses numbering 1-4 inclusive, as follows:

- (1) S 59° 43' E 576.11 feet to an iron stake;
- (2) S 61° 55' E 100.0 feet to an iron stake;
- (3) S 64° 42' E 100.0 feet to an iron stake;
- (4) S 67° 40' E 103.86 feet to an iron stake at the intersection of the south line of the said Railroad right-of-way, with the west line of Interstate Highway #35;
- (5) THENCE with the west right-of-way line of Interstate Highway #35, S 29° 00' W 214.14 feet to an iron stake in the north line of East St. Elmo Road;

(6) THENCE with the north line of East St. Elmo Road, N 59° 42' W 894.19 feet to an iron stake at the intersection of the north line of said East St. Elmo Road, with the west line of the said 498.0 acre tract designated as Second Tract, being also the west line of the James Doyle 298 acre tract, the west line of the Santiago Del Valle 10 League Grant and the east line of the Isaac Decker League Survey #20;

(7) THENCE with the west line of the said 498 acre tract designated as Second Tract, the west line of the James Doyle 298 acre tract, the west line of the Santiago Del Valle 10 League Grant and the east line of the Isaac Decker League Survey #20, N 30° 00' E 821.06 feet to the point of beginning consisting of 16.783 acres of land, more or less.

Parcel 1-B

BEGINNING at an iron stake at the intersection of the southwest line of Ben White Boulevard, with the west line of a 498 acre tract designated as Second Tract in a deed from University of Notre Dame to St. Edwards University, dated March 16, 1927, recorded in Vol. 398, Page 530, Travis County Deed Records, and being also the west line of a 298 acre tract out of the Santiago Del Valle 10 League Grant in Travis County, Texas, as described in a deed from W. J. Clgham to James Doyle, dated April 11, 1853, as recorded in Vol. "G", Page 136, Travis County Deed Records, and being also the west line of the Santiago Del Valle 10 League Grant and the east line of the Isaac Decker League Survey #20 in Travis County, Texas, and from which iron stake a concrete monument at the southeast corner of a 288 acre tract out of the Santiago Del Valle 10 League Grant in Travis County, Texas, as described in a deed from A. C. Horton by agent, T. H. Duval, to A. N. Hopkins, dated February 28, 1851, as recorded in Vol. "G", Page 194, Travis County Deed Records, and being also an Ell corner of the said 498 acre tract designated as Second Tract, and being also an Ell corner of a 200 acre tract, a portion of the Santiago Del Valle 10 League Grant as described in a deed from A. C. Horton to James Doyle dated December 6, 1853, bears N 30° 00' E 5161.11 feet, and S 60° 00' E 2428.47 feet;

THENCE with the southwest line of Ben White Boulevard S 37° 08' E 264.81 feet to a concrete State Highway Marker, at point of curve;

THENCE with a curving line a chord distance of which runs S 40° 14' E, 124.11 feet to a concrete Highway Marker;

THENCE with a line of Ben White Boulevard, S 30° 11' W 53.17 feet to an iron stake in the north right-of-way line of the Missouri Pacific Railroad Company;

THENCE with the north right-of-way line of the Missouri Pacific Railroad Company, N 59° 43' W 360.31 feet to an iron stake at the intersection of the north line of the said Railroad, with the west line of the said 498 acre tract designated as Second Tract and the west line of the James Doyle 298 acre tract, the west line of the Santiago Del Valle 10 League Grant and the east line of the Isaac Decker League Survey #20;



2501 30

THENCE with the west line of the said 498 acre tract designated as Second Tract, the west line of the James Doyle 298 acre tract, the west line of the Santiago Del Valle 10 League Grant and the east line of the Isaac Decker League Survey #20, N 30° 00' E 196.11 feet to the place of the beginning consisting of 1.011 acres of land, more or less.

from date same is expended until paid at the rate of 10% per annum, and be secured by the lien reserved above and be subject to the 10% attorney's fee clause in the above mentioned note; and failure of the GRANTEES herein, their heirs, assigns, or legal representatives, to pay taxes or keep such improvements insured as provided above or to carry out any other covenant or condition herein and in said note shall authorize the owner of said note to declare the whole of the same due and payable and to immediately institute suit for foreclosure and collection.

Further the above conveyance is subject to the covenant hereby made by GRANTEES, and the condition, that

This property shall be used for residential, commercial, industrial or warehousing purposes, and the Grantees, their heirs and assigns shall not use, or allow the use of the premises or any portion thereof, or any building or structure thereon for any business which constitutes a nuisance; or any business which causes the emission of noxious or injurious odors or gases; or any business calculated to injure the reputation of said premises; or for any purpose contrary to law;

this covenant is made for the benefit of the GRANTOR its successors and assigns who are specifically given the right to enforce same and to institute and prosecute proceedings at law or in equity against the person or persons violating or threatening to violate same; such covenant and condition to be binding upon and to be observed by the GRANTEES herein, as well as their heirs, executors, administrators and assigns

Further the GRANTOR, its successors and assigns, holding the note herein described as given in part payment for the purchase of the real property herein described and for the payment of which the vendor's lien herein described is retained as security; shall be obligated and bound to release said herein retained vendor's lien in whole or in part upon the payment by GRANTEES to GRANTOR its successors and assigns of the said note herein described in whole or in part according to its terms, provided further, that no such partial payment and/or such partial release shall in anywise impair or affect the validity, priority or standing of such vendor's lien as to the rest of the premises covered by this conveyance, regardless of who may own same or any part thereof or the order of its alienation or acquisition

IN WITNESS WHEREOF, the aforesaid GRANTOR, SAINT EDWARD'S UNIVERSITY, has caused these presents to be signed by Brother Raymond

2501 32

Fleck, C.S.C., its president, and its common seal to be hereunto affixed,  
on this 30<sup>th</sup> day of July, 1962.

SAINT EDWARD'S UNIVERSITY

(University Seal)

By Brother Raymond Fleck, C.S.C.  
Brother Raymond Fleck, C.S.C.  
President

ATTEST-

Brother Donald Connolly, C.S.C.  
Brother Donald Connolly, C.S.C.  
Assistant Secretary

THE STATE OF TEXAS )  
COUNTY OF TRAVIS )

BEFORE ME, the undersigned authority, on this day personally  
appeared Brother Raymond Fleck, C.S.C., known to me to be the person and  
officer whose name is subscribed to the foregoing instrument and acknowledged  
to me that the same was the act of the said SAINT EDWARD'S UNIVERSITY, a  
corporation, and that he executed the same as the act of such corporation for  
the purposes and consideration therein expressed, and in the capacity therein  
stated.

Given under my hand and seal of office on this the \_\_\_\_\_ day of  
\_\_\_\_\_, 1962.

(Notary Seal)

Franklin J. [Signature]  
Notary Public in and for  
Travis County, Texas

My Commission expires \_\_\_\_\_, 19\_\_\_\_

Filed 2501 30 July 1962 AM  
Recorded 2501 30 July 1962 AM

THE STATE OF TEXAS

County of Travis

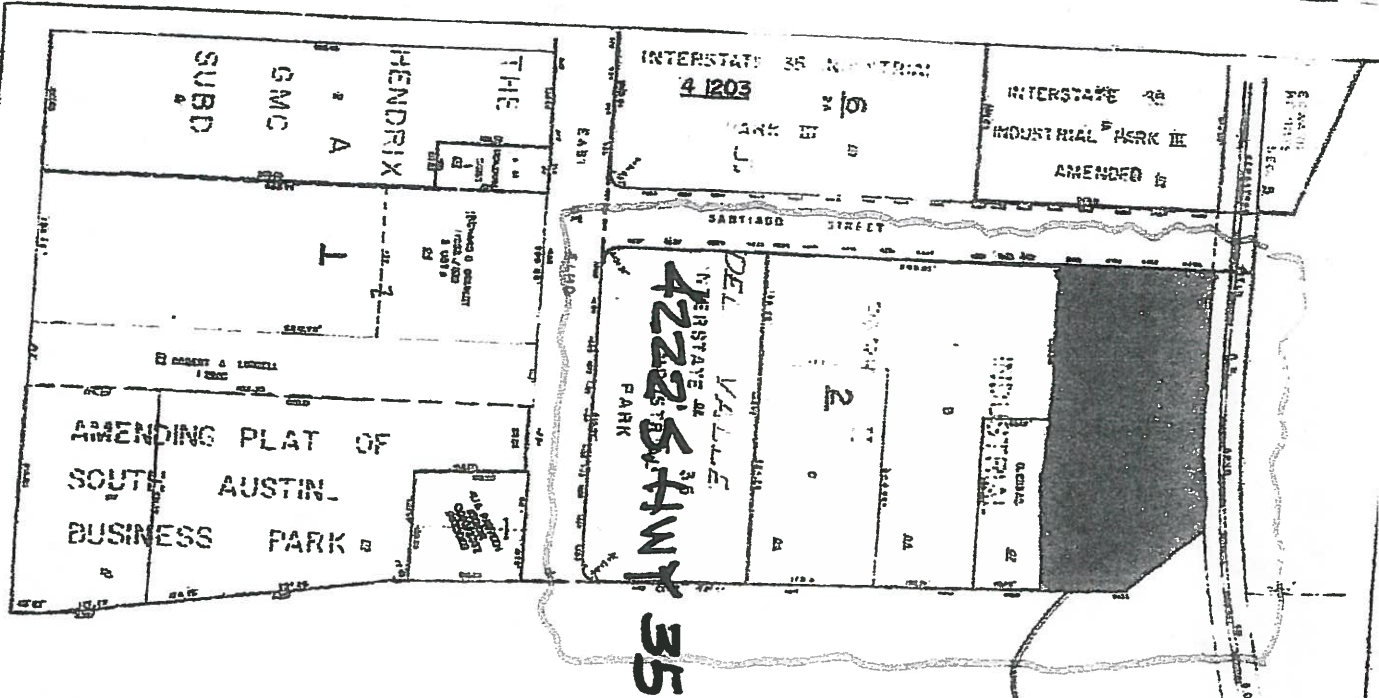
I, MISS EMILIE LIMBERG, Clerk of the County Court

with me for the County and State of Texas, do hereby certify that the within and  
 foregoing instrument was filed for record in the County of Travis, Texas, on the  
 30 day of July, A.D. 1962 at 11:07  
 o'clock AM, and by me at the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 1962 at  
 \_\_\_\_\_ o'clock AM, in the \_\_\_\_\_ volume of said County,  
 Book 2501 Page 26 inclusive  
 Witness my hand and seal of office at the City of Austin, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 1962.

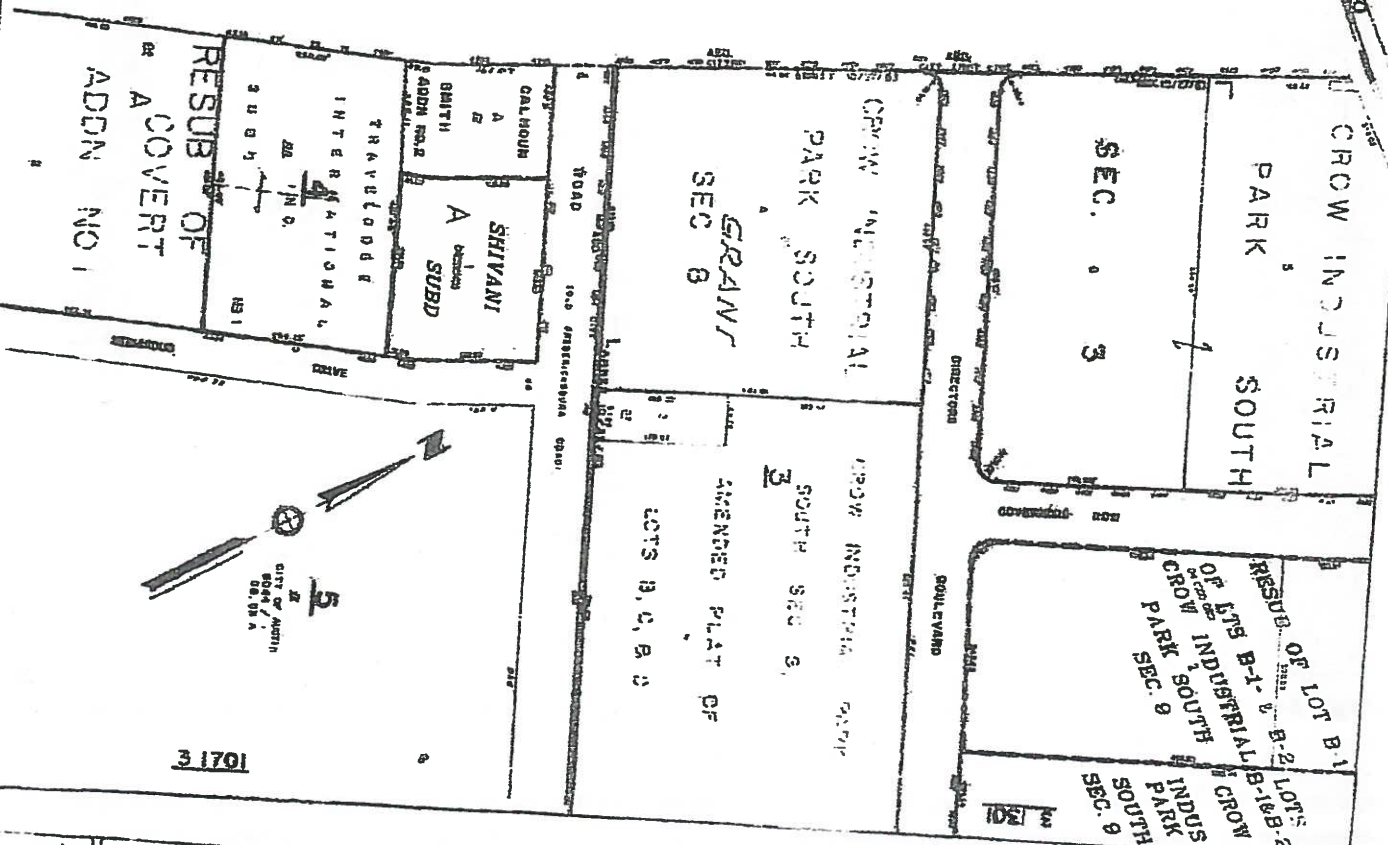
By [Signature] Deputy.

M. S. EMILIE LIMBERG  
Clerk County Court, Travis County, Texas





4222



4222

TRAVIS CENTRAL APPRAISAL DISTRICT  
8314 CROSS PARK DRIVE  
78754

AUSTIN, TEXAS  
(512) 834 9317

AGENCY  
CITY OF AUSTIN  
ALSO  
FOR

SCALE  
1" = 400' MAP  
REFERENCE  
3 1301  
1 1308

MAP NO.  
4 1301